



NOV 27 2001

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In re Application of
BLANCHARD et al.
Application No.: 09/806,473
PCT No.: PCT/IB99/01625
Int. Filing Date: 01 October 1999
Priority Date: 07 October 1998

Attorney's Docket No.: 205738US0PCT
For: NOVEL RHEOLOGY REGULATORS SUCH AS
GROUND NATURAL CALCIUM CARBONATES
OPTIONALLY TREATED WITH A FATTY ACID OR
SALT AND THEIR USE

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DECISION ON
:
PAPERS FILED
:
UNDER 37 CFR 1.42
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This is a decision on the papers filed in the United States Patent and Trademark Office (USPTO) on 01 August 2001, which are being treated as a request for status under 37 CFR 1.42. Applicant's request for one month extension of time under 37 CFR 1.136(a) is granted.

BACKGROUND

On 01 October 1999, applicants filed international application PCT/IB99/01625, which claimed priority of an earlier French application filed 07 October 1998. On 04 May 2000, a Demand for international preliminary examination was filed. Accordingly, the thirty month period for paying the basic national fee for processing in the United States expired at midnight on 07 April 2001.

On 09 April 2001, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter were, *inter alia*: the basic national fee and an English translation of the international application. In order to satisfy the requirement that an oath or declaration of the inventors be furnished, applicants also filed a declaration that was signed by applicant/inventors Pierre Blanchard, Detlef Gysau, Patrick Trouve and by Marion Loman-Oonk, as legal representative for deceased co-inventor, Henny Loman. The submission has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

Pursuant to 37 CFR § 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

37 CFR 1.497(a)(3) requires that the declaration must identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. Furthermore, 37 CFR 1.497(b)(2) states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must also state that the person is a legal representative and the citizenship, residency and mailing address of the heir(s)/legal representative.

The declaration submitted on 01 August 2001 identifies Marion Loman-Oonk, as legal representative for deceased co-inventor, Henny Loman and states the country of citizenship, former residency and mailing address of the deceased inventor as required for compliance with 37 CFR 1.497(a)(3). However, the declaration, although signed by the legal representative of the deceased inventor, fails to provide the legal representative's country of citizenship, residency and mailing address respectively. See 37 CFR 1.64.

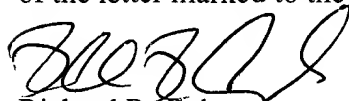
Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

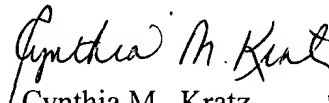
For the above reasons, the request for status under 37 CFR 1.42 is presently **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.42 must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.42." No additional petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT Legal, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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